

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JAMIE GILES,

Plaintiff,

V.

**PAROLE BOARD COMMISSION;  
OFFENDER MANAGEMENT DIVISION.**

### Defendants.

Case No. 2:19-cv-01133-RFB-GWF

## **ORDER**

## I. INTRODUCTION

Before this Court is Plaintiff's Complaint. ECF No. 1-1. Plaintiff has not yet filed an application to proceed in forma pauperis nor a filing fee. However, for the reasons stated below, the Court finds that it is appropriate to dismiss Plaintiff's Complaint on the merits.

## II. DISCUSSION

Plaintiff alleges that he was sentenced in violation of the Fifth Amendment's protection against double jeopardy. Plaintiff seeks to hold Defendants accountable for his allegedly unlawful sentence pursuant to 42 U.S.C. § 1983.

Plaintiff may not obtain relief pursuant to 42 U.S.C. § 1983 for any allegation that bears relationship to a sentence that has not been invalidated. Heck v. Humphrey, 512 U.S. 477, 487 (1994). Plaintiff's Complaint clearly constitutes an attack on the legitimacy of his sentence. Because Plaintiff's allegation is inconsistent with the possibility that his sentence already "has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal

1 authorized to make such determination, or called into question by a federal court's issuance of a  
2 writ of habeas corpus," the Section 1983 Complaint must be dismissed with prejudice. Id. at 486–  
3 87. Section 1983 is simply not the appropriate vehicle for Plaintiff's allegation. Rather, a petition  
4 for writ of habeas corpus is "the exclusive federal remedy" for "whenever the requested relief  
5 requires as its predicate a determination that a sentence currently being served is invalid or  
6 unconstitutionally long." Young v. Kenny, 907 F.2d 874, 876 (9th Cir. 1989).

8

9 **III. CONCLUSION**

10 For the reasons stated,

11 **IT IS ORDERED** that the Complaint is DISMISSED.

12 **IT IS FURTHER ORDERED** that the Clerk of Court shall enter judgment for  
13 Defendants. The Clerk of Court is instructed to close this case.

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16 DATED: July 1, 2019.

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19 **RICHARD F. BOULWARE, II**  
20 **UNITED STATES DISTRICT JUDGE**